



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CECW-PM

12 DEC 2001

MEMORANDUM FOR Commander, Great Lakes and Ohio River Division

SUBJECT: Great Lakes Fishery and Ecosystem Restoration Program - Guidance for Implementation of Section 506 of the Water Resources Development Act (WRDA) of 2000

1. Citation. The full text of Section 506 of the WRDA of 2000 (Public Law 106-541, 114 STAT. 2645) is provided as an enclosure.
2. Synopsis. Section 506 of the WRDA of 2000 provides programmatic authority for restoration of the Great Lakes fishery and ecosystem. Section 506 calls for the Secretary to develop a plan to support the management of Great Lakes fisheries not later than one year after the date of enactment of the legislation. It also provides for the planning, design, construction, and evaluation of projects to restore the fishery, ecosystem, and beneficial uses of the Great Lakes in cooperation with other Federal, State, and local agencies and the Great Lakes Fishery Commission. Costs for development of the support plan and for planning, design, construction, and evaluation of restoration projects are to be shared 65 percent Federal and 35 percent non-Federal. Non-Federal interests may contribute up to 50 percent of their share of the support plan and projects in the form of services, materials, supplies, or other in-kind contributions. Non-Federal interests will also receive credit for the value of lands, easements, rights-of-ways, relocations, and dredged material disposal areas needed for project construction. Non-Federal interests are responsible for the operation, maintenance, repair, rehabilitation, and replacement of projects. The law also provides for the non-Federal sponsor of projects to include private and non-profit entities. Federal appropriations in the amounts of \$300,000 for the support plan and \$100,000,000 for the planning, design, construction, and evaluation of specific restoration projects are authorized.
3. Guidance.
 - a. Funding. Funds for program implementation have not been appropriated. Ecosystem restoration is currently a project purpose for which USACE may request funding. Subject to determining that there is an appropriate non-Federal entity (e.g., Great Lakes Fishery Commission) willing to share the cost to develop the support plan, CELRD should consider requesting funds for program implementation via the normal budget process. No work to carry out any provision of Section 506 shall be undertaken until funds are appropriated.
 - b. Agreement. Subject to appropriation of funds, the first action will be to negotiate and execute an agreement with non-Federal interests to share the cost of developing the support

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plan (i.e., program management plan). The agreement should be based on the model Feasibility Cost Sharing Agreement (FCSA). Headquarters must approve deviations from the model FCSA prior to execution of the cost sharing agreement. The agreement will be supported by a document that describes the scope, schedule, and cost of the effort required to prepare the plan. Non-Federal interests will be required to contribute 35 percent of the total cost to develop the plan of which up to 50 percent of their share may be in the form of services, materials, supplies, or other in-kind contributions. All Federal costs incurred prior to execution of the cost sharing agreement shall be counted toward the 65-percent Federal share and the \$300,000 amount authorized to be appropriated for development of the plan.

c. Program Management Plan (PMP). The PMP will make use of and incorporate documents currently existing such as the lakewide area management plans and remedial action plans to define the specific restoration goals of the program. The PMP will document program management responsibilities and establish the procedures for planning, design, construction, and evaluation of restoration projects consistent with current policy. The scope of required decision and implementation documents, including independent technical review and legal review, and approval authority shall be defined. Conceptually, the program should be managed similar to the continuing authorities program. The PMP should provide for the development of a model project cooperation agreement and for review and approval of deviations at Headquarters. The PMP should establish guidelines for scoping the monitoring and evaluation of projects and provide for submission of periodic reports to Headquarters. The PMP should be completed within one year following receipt of appropriations and will be submitted to Headquarters for review and approval by the Assistant Secretary of the Army (Civil Works).

FOR THE COMMANDER:



JAMES F. JOHNSON
Chief, Planning and Policy Division
Directorate of Civil Works

Encl

CF:
CELRD-CM

GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION PROGRAM

Section 506 of the Water Resources Development Act of 2000 (Public Law 106-541, 114 STAT. 2645)

SEC. 506. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.

(a) FINDINGS.-- Congress finds that--

(1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;

(2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and

(3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) DEFINITIONS.-- In this section, the following definitions apply:

(1) GREAT LAKE.--

(A) IN GENERAL.-- The term "Great Lake" means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) INCLUSIONS.-- The term "Great Lake" includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) GREAT LAKES COMMISSION.-- The term "Great Lakes Commission" means the Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) GREAT LAKES FISHERY COMMISSION.-- The term "Great Lakes Fishery Commission" has the meaning given the term "Commission" in section 2 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 931).

(4) GREAT LAKES STATE.-- The term "Great Lakes State" means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(c) GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.--

(1) SUPPORT PLAN.--

Enclosure

(A) IN GENERAL.-- Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) USE OF EXISTING DOCUMENTS.-- To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on the date of enactment of this Act, such as lakewide management plans and remedial action plans.

(C) COOPERATION.-- The Secretary shall develop the plan in cooperation with--

(i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and

(ii) other affected interests.

(2) PROJECTS.-- The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(3) EVALUATION PROGRAM.--

(A) IN GENERAL.-- The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (2) in meeting fishery and ecosystem restoration goals.

(B) STUDIES.-- Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(d) COOPERATIVE AGREEMENTS.-- In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) RELATIONSHIP TO OTHER GREAT LAKES ACTIVITIES.-- No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) COST SHARING.--

(1) DEVELOPMENT OF PLAN- The Federal share of the cost of development of the plan under subsection (c)(1) shall be 65 percent.

(2) PROJECT PLANNING, DESIGN, CONSTRUCTION, AND EVALUATION.-- The Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (2) or (3) of subsection (c) shall be 65 percent.

(3) NON-FEDERAL SHARE.--

(A) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.-- The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out a project under subsection (c)(2).

(B) FORM.-- The non-Federal interest may provide up to 50 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

(4) OPERATION AND MAINTENANCE.-- The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) NON-FEDERAL INTERESTS.-- Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b), for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

(g) AUTHORIZATION OF APPROPRIATIONS.--

(1) DEVELOPMENT OF PLAN.-- There is authorized to be appropriated for development of the plan under subsection (c)(1) \$300,000.

(2) OTHER ACTIVITIES.-- There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (c) \$100,000,000.